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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS DIVISION**

**GIUMARRA BROS. FRUIT CO., INC., a
California corporation; BONITA
PACKING CO., a California corporation;
and GREEN FARMS OF NEVADA, INC.,
a Nevada corporation doing business as
WORLDWIDE PRODUCE,**

Plaintiff,

vs.

**PARADISE PRODUCE, LLC, a Nevada
limited liability company doing business as
PARADISE PRODUCE doing business as
PARADISE PRODUCE
DISTRIBUTORS, also trading as
PAULMAR, LLC; MICHAEL K.
ROSENBLUM, an individual; WILLIAM
H. ROSENBLUM, an individual;
EUGENE J. HICKEY, an individual; and
WEST CENTRAL, LLC, a Nevada limited
liability company,**

Defendants.

CASE NO: 2:18-cv-00395-APK-NJK

**PLAINTIFFS' MOTION AND SUPPORTING MEMORANDUM TO ENLARGE
TIME FOR SERVICE OF PROCESS UPON DEFENDANT,
WEST CENTRAL, LLC**

Pursuant to Fed. R. Civ. P. 4(m), Plaintiffs Giumarra Bros. Fruit Co., Inc., Bonita Packing Co. and Green Farms of Nevada, Inc. d/b/a Worldwide Produce respectfully request this Court enter an order extending, for a period of 30 additional days, the time

1 for service of process upon Defendant West Central, LLC (“West Central”). In support
2 of this Motion, Plaintiffs state the following:

3 **PROCEDURAL HISTORY**

4 1. The original Plaintiffs, Giumarra Bros. Fruit Co., Inc. and Bonita Packing
5 commenced this action on March 5, 2018 [DE 1], and summonses were issued on the
6 same day [DE 3].

7 2. On May 16, 2018, Plaintiffs amended their Complaint to add Green Farms
8 of Nevada, Inc. d/b/a Worldwide Produce as a Plaintiff [DE 6].

9 3. On May 16, 2018, and May 23, 2018, the Clerk issued new summonses
10 [DE 8, 12].

11 4. A process server executed the summons upon the following Defendants:

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Defendant	Docket Number
Eugene Hickey	13
Paradise Produce, LLC	14
William H. Rosenblum	15
Michael K. Rosenblum	16

16 **SUPPORTING MEMORANDUM OF LAW**

17 5. Under Fed R. Civ. P. 4(m), the 90-day time limit to serve the original
18 summons expires on Jun 3, 2018. Plaintiffs submit good cause exists to extend this
19 deadline by 30 days, or to July 3, 2018, to effectuate service upon West Central.

20 6. Rule 4(m) states that upon the showing of good cause, the Court must
21 extend the time for service "for an appropriate period." In this Court, a plaintiff must
22 show the following factors in order to bring the excuse to the level of good cause: “(a) the
23 party to be served received actual notice of the lawsuit; (b) the defendant would suffer no
24 prejudice; and (c) plaintiff would be severely prejudiced if his complaint were
25 dismissed.” *Robinson v. Churchill Community Hosp.*, 2007 WL 496819, at *1 (D. Nev.
26 Feb. 12, 2007). Plaintiffs have satisfied all three factors.

7. West Central has known about the lawsuit, and therefore, cannot be prejudiced by the extension. On March 14, 2018, one of Plaintiffs' attorneys notified an attorney representing West Central of the lawsuit. For approximately two months, attorneys for Plaintiffs and West Central have had conversations concerning the facts underlying the claim against West Central.

8. On the other hand, Plaintiffs would be prejudiced without extending the deadline.

9. If the claims against West Central are dismissed, Plaintiffs would have to incur the costs and attorneys' fees to refile these claims in another lawsuit, while they continue to pursue their claims against the aforementioned served defendants in this lawsuit, and likely seek to consolidate the matters.

10. In addition to having conversations with West Central's attorney, Plaintiffs have recently amended the complaint to add a new plaintiff, Green Farms of Nevada, Inc. d/b/a Worldwide Produce, who just became a party to this lawsuit over two weeks ago.

11. After the amended complaint was filed and new summonses were issued, on May 25, 2018, and May 31, 2018, Plaintiffs' co-counsel asked West Central's attorney whether he would accept service of the Amended Complaint and Summons on behalf of West Central. As of this motion, the attorney has not advised whether he has the authority to accept service.

12. If the attorney is not authorized to accept service, Plaintiffs will retain a process server to effectuate service upon West Central's registered agent.

13. Because of the upcoming June 3, 2018, deadline to effectuate service, Plaintiffs requests this Court extend this deadline by 30 deadlines, or July 3, 2018.

14. This request is filed in good faith, and not for the purpose of delay. In addition, Plaintiffs file this motion before the June 3, 2018, deadline.

FOR THESE REASONS, Plaintiffs respectfully submit that they have shown good cause for the requested enlargement of time to serve process on West Central, and

1 requested that this Court enter an order extending the time for service of the process
2 issued to West Central for an additional 30 days, or until July 3, 2018.

3 Respectfully submitted on Friday, June 01, 2018.

4 **LAW OFFICES OF MICHAEL A.**
5 **HAGEMEYER**

6 /s/ Michael A. Hagemeyer
7 Michael A. Hagemeyer

8 *Counsel for Plaintiffs*

9 IT IS SO ORDERED.

10 Dated: June 4, 2018

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14 UNITED STATES MAGISTRATE JUDGE
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